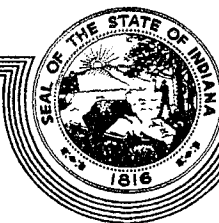


STATE OF INDIANA



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Dear Interested Parties:

On behalf of the Commission, I am writing to thank you for participating in the independent and confidential survey of the Commission's performance.

The Commission engaged David Seiferth of Strategic Marketing & Research, Inc. to conduct this review. Upon completing his survey and discussions with the participants, he has incorporated your responses into a quantitative and qualitative format entitled *Indiana Utility Regulatory Commission Environmental Scan Research Report, November 2007* ("Survey Report"), a copy of which is enclosed. This is the entire report as delivered to me—there are no edits or deletions.

The purpose of undertaking an independent survey was to give those who are involved with the Commission's activities a direct and confidential opportunity to speak to the Commission's performance. Your feedback is valuable to the Commission as it allows us to understand both the areas in which we are doing well and where we can improve. By the time you receive this, each Commission employee will have received the Survey Report, the Commission's response (this letter), and attended a meeting where both were discussed.

I am pleased to see your responses indicated that the Commission is doing a good job. Participants ranked our thoroughness, personnel, and communications as strong assets. Overall, you gave the Commission a positive rating.

The Survey Report also indicates areas that warrant attention. Specifically, there are six areas in which you indicated the Commission should focus: 1) Enhancing Communication on Policy Issues; 2) Shortening the Time in Which Orders Are Issued; 3) Approving Settlement Agreements Faster; 4) Small Utility Issues; 5) Increasing Staffing, and; 6) Implementing Electronic Filing. I have included the Commission's initial response to each of these items below.

Enhancing Communication on Policy Issues

In an effort to further increase communication the Commission has engaged in technical workshops, either as informational seminars, or in connection with docketed cases, to informally discuss various issues. In addition, parties to docketed proceedings may communicate with the Commission, outside of a hearing, in a manner that complies with the ex

parte rule. The Commission is available to discuss various issues so long as that communication is legally permitted, and the Commission intends to increase its effort in communicating with various utilities and other participants.

By an extensive series of rulemakings, the Commission has attempted to improve and simplify its interactions. Discussion during the process has been valuable and changes resulting therefrom are designed to enhance those lines of communication.

The Commission believes that communication consists of both speaking and listening; we are prepared to do both.

Shortening the Time in Which Orders are Issued

Case processing is a shared interest. When this issue has been recently discussed in conversations with companies, it has become apparent some existing options have been underutilized that could improve timeliness. For instance, a petitioning party could file its case-in-chief concurrently with its petition, which would eliminate some delay. A party could better utilize the Commission's expertise by routinely meeting with staff prior to filing its petition in a manner consistent with the Commission's ex parte rule. Finally, a Petitioner has the option of filing its case under the Commission's Minimum Standard Filing Requirements rule, which provides for an expedited schedule and order within ten months of a complete filing.

With respect to the delay between proposed orders and order issuance, one commenter suggested that there would likely be little complaint if orders were issued within 90 days of the filing of proposed orders. The Commission believes that this is the timeframe for consideration and issuance of the vast majority of its orders. As all will appreciate, the Commission speaks through its orders and devotes considerable resources to being clear and direct. The Commission also is aware of the appellate review process and crafts its orders with this in mind as well. However, in response to issues raised in the survey we are conducting an internal review to determine the extent to which the Commission meets a 90-day turnaround.

Approving Settlement Agreements Faster

As stated by the Indiana Court of Appeals:

Indeed, an agency may not accept a settlement merely because the private parties are satisfied; rather, an agency must consider whether the public interest will be served by accepting the settlement.

Citizens Action Coalition of Indiana, Inc. v. PSI Energy,
664 N.E.2d 401, 406 (Ind. Ct. App. 1996), *citing* C. Koch,
Administrative Law and Practice § 5.81 (Supp. 1995).

Clearly, determination of the public interest rests solely and exclusively with the Commission. A settlement does not substitute for or circumvent that sole and exclusive obligation. Indeed, a settlement must be supported as must any other petition.

Unlike civil proceedings in which a court need consider only the interests presented by the private parties, the Commission has been delegated the responsibility to determine whether a settlement is in the public interest. Accordingly, a settlement unanimously reached by the parties involved does not relieve the Commission of its obligation to review the terms of the settlement and make an independent finding that the settlement is in the public interest.

The Commission believes the public interest determination relates to the satisfaction of the public trust. When the public is affected by a Commission order—for example, an order increasing rates—it is entitled to the same degree of explanation for that action whether such action is a result of a settlement or a contested proceeding.

With respect to the modification of settlements, the Commission does so only when it determines that a modification is necessary to meet the public interest standard. Issuing an order approving a settlement with modifications is an extra effort by the Commission to respect the efforts of the parties which do not meet the public interest standard but come close. If a party believes that the modification is not a change to which it can agree, the party has the option of rejecting the modified settlement.

Small Utility Issues

The Commission currently has statutes and rules specifically providing for a more streamlined process for utilities serving fewer than 5,000 customers. Because the ex parte rule does not typically apply to these small utility proceedings, small utilities may maximize the Commission's expertise through ongoing communication with the Commission and the Indiana Office of Utility Consumer Counselor. Additionally, there is a pending proposed rulemaking for the small utility filing procedures, 170 IAC 14-1. Legislative changes may also be appropriate. The Commission intends to increase its communication efforts with small utilities to inform and educate them concerning the procedures and timeframes currently in place.

Increasing Staffing

Since 2005, the Commission has increased its staffing. The Commission has had an increased workload and anticipates a further increase in the coming year and plans to adjust staffing accordingly to meet that demand, to the extent possible. In all candor, even though the administration has been very supportive, there are fundamental issues with state employment that make it difficult to attract and, especially, retain employees. With high turnover, the cadre of experienced employees must perform their assigned tasks as well as train new employees.

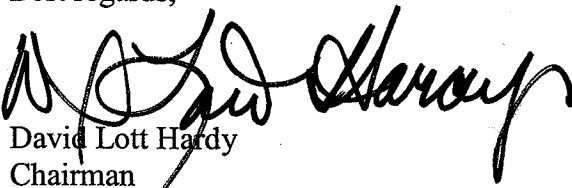
To some extent, this is a resource issue and may benefit from additional expenditures. It would be beneficial for all participants to think through the willingness to commit to an increased level of expenditure in order to recruit additional staff and retain existing staff. Without that commitment, the resolution of this issue is not apparent to me.

Implementing Electronic Filing

The Commission is currently addressing changes to its online filing system and will consider electronic filing as part of that process. The Commission will work with stakeholders in determining what features should be incorporated into the system. At the same time, implementation of electronic filing will need to be consistent with our obligations under public records laws and the requirements of our document retention schedule.

The Commission routinely reviews ways in which we can make the regulatory process more efficient and relevant to the needs of those who must utilize it. It is our hope that the Commission can continue a dialogue going forward so that we can continue to find new ways to improve. At the same time, there is much that you, the stakeholders, can do, using our current rules and procedures, that may help you obtain the results that you indicated were important. Please feel welcome to pursue individual conversations on the Survey Report or our response. If any of you believe it useful to contact Mr. Seiferth directly, please feel welcome to do so. I look forward to listening to you and continuing to work with you.

Best regards,


David Lott Hardy
Chairman